

Bushwalking NSW

PO Box 119, Newtown NSW 2042.

PH: (02) 9565 4005

email: admin@bushwalkingnsw.org.au

www.bushwalkingnsw.org.au



<https://www.facebook.com/bushwalkingnsw>



@BushwalkingNSW

28th July, 2015

To: Bushwalking NSW Affiliated Clubs

Dear Sir/Madam,

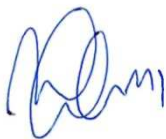
Re: Special resolutions for consideration at the 2015 AGM of Bushwalking NSW

Please find enclosed the agenda and special resolutions proposed for consideration at the 2015 Bushwalking NSW Annual General Meeting to be held at 7pm on Tuesday, 18th August, 2015 at Ashfield RSL Club, 374 Liverpool Rd, Ashfield.

Also enclosed are details of a proposed motion to develop a Bushwalking NSW policy on development in National Parks. Your clubs' expression of interest in contributing to this policy is requested by the date of the AGM Tuesday, 18th August, 2015.

We look forward to hearing from your club and seeing you at the AGM.

Yours sincerely,



Mitchell Isaacs

President

Bushwalking NSW

Bushwalking NSW

Proposed special resolutions for consideration at the 2015 AGM of Bushwalking NSW

1. Amend constitution to update name of organisation
2. Amend constitution to allow written notifications to be sent by email
3. Amend constitution so that clubs rather than delegates are the legal members
4. Insert new clauses into constitution to ensure compliance with *Associations Incorporation Act 2009*
5. Amend constitution to use the terms approved in the Act to describe a mentally incapacitated person

1. Name of organisation – ensure ‘Bushwalking NSW’ is recognised under all legal frameworks

The *Confederation of Bushwalking Clubs NSW* adopted the new name of *Bushwalking NSW* at a general meeting in February 2013. However, despite the adoption of the new name, and change of name of incorporation, the constitution was not amended at that time to reflect the new name. This leads to administrative difficulties, such as with banking. The proposed special resolution is as follows:

- (a) *That clause 1 be amended to read: “The name of the Association shall be Bushwalking NSW Incorporated - referred to in these Rules as Bushwalking NSW.”*
- (b) *Clause 4(3)(a) be amended to read “Bushwalking NSW means Bushwalking NSW Incorporated”*
- (c) *That all other references to the “Confederation” be replaced with “Bushwalking NSW”*

2. Allow written notice to be sent electronically where an email address is maintained in the register of members

Currently, the constitution requires various written notifications to be sent “by post” or “by pre-paid post”. It is proposed to update the constitution to increase flexibility in service of written notification such that notices can be served in writing to any address (including email address) contained in the register of members.

That the constitution be amended as follows:

- (a) *Any reference to “by post” or “by pre-paid post” be deleted.*
- (b) *(c) In clause 44 (2) change “posting” to “sending”*
- (c) *An additional sub-clause (4) be added to clause 44:*

Where an electronic mailing address for a member is maintained in the register of members, written notices may be served on that member by sending it to that electronic mailing address.

3. Membership – legal members to be affiliated clubs rather than delegates

Currently the membership of Bushwalking NSW are legally the delegates from each bushwalking club. This creates administrative difficulties, given that the clubs should be required to maintain up to date registers of delegates, and Bushwalking NSW should keep a formal register of these delegates. It is proposed to amend the constitution so that the members of Bushwalking NSW Incorporated are the affiliated bushwalking clubs, and so that each club is represented at meetings by the same number of delegates they are currently entitled to.

The specific amendments required are quite extensive.

Bushwalking NSW

The proposed special resolution is as follows:

That the rules of Bushwalking NSW be amended such that:

- (a) The ordinary members of Bushwalking NSW are to be the affiliated clubs rather than delegates of the clubs*
- (b) Clubs (who are ordinary members) will be represented by delegates who are its own members, and will be entitled to the same number of delegates as currently entitled to*
- (c) Individuals may become honorary or co-opted members, as is currently the case in the rules, however these members will not have voting rights (unless representing a club as a delegate)*
- (d) Committee members may comprise delegates, honorary members, or co-opted members*
- (e) The detailed amendments below are made to the Constitution in order to implement these changes.*

The full amendments are specified below, and seek to maintain the intent of the existing provisions as closely as possible.

- (a) Omit clause 4.(3) c) & d), and replace with the following clause 4.(3) c) & d):
"c) Approved organisation means any organisation which qualifies under these Rules for the right to be member of Bushwalking NSW.
d) Member means any currently approved affiliated organisation or any person admitted by the management committee to be a member of Bushwalking NSW."*
- (b) Omit Clause 5, and replace with the following new clause 5:
"5. (1) Subject to these Rules the members of Bushwalking NSW are the bushwalking clubs affiliated with Bushwalking NSW, together with such other people as the management committee admits to membership
(2) There are two kinds of individual membership:
 - Honorary life membership
 - Co-opted membershipOther classes of membership may be determined by Bushwalking NSW from time to time."*
- (c) Rename Clause 6 as "NOMINATION FOR AFFILIATION"*
- (d) Omit Clause 6 (1), and replace with the following new clause 6 (1):
"Any organisation seeking the right to affiliate their organisation with Bushwalking NSW shall apply to the management committee for approval. The organisation shall:
 - a) be prepared to accept the objects and rules of Bushwalking NSW;
 - b) have a minimum of 10 financial members;
 - c) have a statement of objectives and rules or constitution compatible with and acceptable to Bushwalking NSW."*
- (e) Omit Clause 6 (5) and replace with the following new Clause 6 (5):
"Once an organisation is approved it may nominate a number of its own members to represent it and vote on its behalf in proportion to its total membership as follows:*

Bushwalking NSW

Number of members: Number of delegates:

<i>10 – 100</i>	<i>2</i>
<i>101 – 250</i>	<i>3</i>
<i>251 and over</i>	<i>4”</i>

(f) Omit clause 6 (6) and replace with the following new clause 6 (6):

“Nominations of club representatives:

- a) shall be in writing; and*
- b) shall be lodged with the secretary of Bushwalking NSW.”*

(g) Omit clause 6 (7) and replace with the following clause 6 (7) (note subclause 7(a) is unchanged):

“ The secretary shall, as soon as practicable after an application for membership has been approved, request the approved organisation to:

- a) pay, within a period 28 days, the sum payable under the Rules as the initial subscription, which shall be calculated on a proportional basis from the date of acceptance to the end of the financial year; and*
- b) nominate the appropriate number of their members to be their representatives.”*

(h) Omit Clause 6 (8) & (9) and replace with the following new Clause 6 (8) & (9):

“(8) On payment of the amount referred to in sub-Clause (7) above, within the period stated in the same clause the clubs approved for membership shall be entered on the register of members and they shall become members of Bushwalking NSW.

(9) No delegate may represent more than one approved organisation nor may a delegate who represents an approved organisation act as proxy for any other approved organisation except where a delegate is appointed to represent an organisation outside the Sydney metropolitan area whose members would have difficulty attending meetings of Bushwalking NSW.”

(i) Omit clause 7 and replace with the following new clause 7:

“A club or person shall cease to be a member of Bushwalking NSW if the club or person:

- (1) Dies;*
- (2) Resigns their membership;*
- (3) Fails to pay their annual subscription by the Annual General Meeting; or*
- (4) A club’s approved status is cancelled in accordance with clause 11.”*

(j) Omit clause 9

(k) Amend clause 10 (1) to remove the words “together with the name and address of the approved organisation he represents and the date on which he became a member”

(l) Omit Clause 11 (1) and replace with a new clause 11 (1) as follows:

Bushwalking NSW

"An approved club, being a member of Bushwalking NSW, shall pay an annual subscription or affiliation fee".

- (m) Omit Clauses 11 (4) & (5) and replace with new clauses 11 (4) & (5) as follows:
"(4) An approved organisation shall cease to be a member if:
a. *The management committee cancels its approved status;*
b. *It fails to pay the annual subscription by the annual general meeting or within 28 days of the granting of its approved status.*
(5) Organisations which cease to become members of Bushwalking NSW under sub-clause (4) (b) above may be reinstated by the management committee on receipt of the overdue subscription or an amount determined by the management committee."
- (n) Amend clause 21 (2) to remove the words "or becomes an unfinancial member of the organisation which nominated him as a member of the Confederation"
- (o) Omit clause 35. (2) and replace with the following new clause 35 (2):
"All votes shall be given personally or by proxy but no person may act as a proxy for any organisation other than the one that nominated him as a delegate except where a person has been appointed to represent an organisation based outside the Sydney metropolitan area."
- (p) Amend clause 36 (1) to replace the words "nominated members" with the word "delegates".
- (q) Omit clause 36 (2) and replace with the following new clause 36 (2):
"A person appointed as a proxy must qualify as a member of Bushwalking NSW or an approved organisation delegate under these rules."

4. Compliance with requirements of the Associations Incorporations Act 2009

Currently, the rules of Bushwalking NSW do not include all the requirements specified under the *Associations Incorporations Act 2009*. Specifically, provisions for Postal Ballots and Dispute Resolution are required. It is proposed to insert the relevant provisions from the current model constitution from NSW Fair Trading, adapted slightly for Bushwalking NSW.

It is proposed that the constitution be amended as follows:

- (a) Insert a new clause 36A titled 'POSTAL BALLOTS':
"1. The association may hold a postal ballot to determine any issue or proposal (other than an appeal under clause 15).
2. A postal ballot is to be conducted in accordance with Schedule 3 to the Associations Incorporation Regulation 2010, or as otherwise determined by the Committee.
3. Without limiting this clause, postal ballots may be undertaken by electronic means such as email or online survey."
2. Insert a new clause 13A titled 'RESOLUTION OF DISPUTES':
"1. A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and Bushwalking NSW are to be first

Bushwalking NSW

referred to the disputes committee established by the management committee for formal discussion.

2. *If the dispute cannot be resolved by the disputes committee, the dispute may be referred to a community justice centre for mediation under the Community Justice Centres Act 1983.*
3. *If a dispute is not resolved by mediation within 3 months of the referral to a community justice centre, the dispute is to be referred to arbitration.*
4. *The Commercial Arbitration Act 1984 applies to any such dispute referred to arbitration."*

5. Use the terms approved in the Act to describe a mentally incapacitated person

The current rules of Bushwalking NSW use the term "mental illness" in subclause 52.(1) e) as a reason to deem that the public officer has vacated his/her position. This term is inappropriate.

In subclause 21.(4) the rules state that a management committee casual vacancy occurs when a member "becomes of unsound mind". The Act uses the term "becomes a mentally incapacitated person".

It is proposed that the constitution be amended as follows to bring it in alignment with the terms used in the Act:

- (a) *Omit subclause 21.(4) and replace with the following new subclause 21.(4):
"e) becomes a mentally incapacitated person;"*
- (b) *Omit subclause 52.(1) e) and replace with the following new subclause 52.(1) e):
"e) becomes a mentally incapacitated person;"*

Proposed motion to develop a new policy on development in National Parks

1. Develop a new policy on development in National Parks by 19th October 2015

Currently Bushwalking NSW does not have a position on development within National Parks. This is an important and contentious matter, and consideration is sought from all affiliated clubs and Bushwalking NSW members.

Adoption of a policy such as this will allow Bushwalking NSW to constructively engage and negotiate with Government to seek outcomes to further the interests of Bushwalking NSW and its members.

The proposed motion is as follows:

1. *That Bushwalking NSW develop a Bushwalking NSW policy on development in National Parks for approval as a special resolution at the next Bushwalking NSW general meeting to be held 17th November, 2015.*

All affiliated clubs and members of Bushwalking NSW are requested to confirm their interest in contributing to the development of the Bushwalking NSW policy on development in National Parks by the Bushwalking NSW AGM on 18th August, 2015.

Bushwalking NSW

Note that to allow for circulation of the special resolution, the policy must be completed by Monday, 19th October, 2015.

An initial draft of the Bushwalking NSW policy on development in National Parks has been developed to assist the completion of this task:

Initial Draft of Proposed Bushwalking NSW policy on development in National Parks

Definitions:

Natural area is defined in the Natural Areas Policy of Bushwalking NSW and is “*any area with predominantly intact native indigenous vegetation cover and containing suitable habitat for its dependent fauna*”

Modified natural area is defined in the *National Parks and Wildlife Act 1974* and means “*an area of land where the native vegetation cover has been substantially modified or removed by human activity (other than activity relating to bush fire management or wild fire) and that is identified in a plan of management as not being appropriate for or capable of restoration.*”

A *modified natural area* does not generally fall within Bushwalking NSW’s definition of *natural area*.

Development includes all works, building and modifications including walking tracks, buildings, roads, and any proposal that will require a lease under Part 12 of the *National Parks and Wildlife Act 1974*.

Bushwalking NSW:

- Supports the existing objects of the *National Parks and Wildlife Act 1974*ⁱ and principles for management of National Parks within that Actⁱⁱ
- Urges caution when considering any commercial development in National Park
- Opposes development in National Parks that is inconsistent with, or risks jeopardising the objects of the Act
- Considers that all alternatives for locating a development outside a National Park must be considered before considering a development within a National Park
- Considers that any development in National Parks must:
 - Seek to improve the environment and ecological values of the National Park where possible, or reduce the impact of existing human activities
 - Be low key
 - Be sensitive to surroundings
 - Promote sustainable visitation and awareness of the natural surrounds
 - Be located within modified natural areas
 - Promote sustainable and low-impact activities such as bushwalking
 - Be consistent with BNSW Natural Areas Policy
 - Consider the broader community perspective towards the proposed development
 - Not restrict access to bushwalkers or other low impact users of the National Park

Bushwalking NSW

When considering consistency with the objectives of the Act, specific consideration for any development in a National Park should be given to:

- Runoff, erosion and pollution (sediment / chemical use)
- Control of weeds, invasive species and diseases (including dieback)
- Restriction of lighting (Flood lighting is not appropriate within a National Park)
- Ensuring non-native animals and domestic pets are not brought into the park
- Reducing sound pollution
- Impacts to bushwalking and other low-impact activities
- Encouraging all visitors to appreciate their location in a national park and promote low-impact recreation
- Impact of roads, access, parking, and any other ancillary development

ⁱ (1) The objects of this Act are as follows:

- (a) the conservation of nature, including, but not limited to, the conservation of:
 - (i) habitat, ecosystems and ecosystem processes, and
 - (ii) biological diversity at the community, species and genetic levels, and
 - (iii) landforms of significance, including geological features and processes, and
 - (iv) landscapes and natural features of significance including wilderness and wild rivers,
- (b) the conservation of objects, places or features (including biological diversity) of cultural value within the landscape, including, but not limited to:
 - (i) places, objects and features of significance to Aboriginal people, and
 - (ii) places of social value to the people of New South Wales, and
 - (iii) places of historic, architectural or scientific significance,
- (c) fostering public appreciation, understanding and enjoyment of nature and cultural heritage and their conservation,
- (d) providing for the management of land reserved under this Act in accordance with the management principles applicable for each type of reservation.

ⁱⁱ A national park is to be managed in accordance with the following principles:

- (a) the conservation of biodiversity, the maintenance of ecosystem function, the protection of geological and geomorphological features and natural phenomena and the maintenance of natural landscapes,
- (b) the conservation of places, objects, features and landscapes of cultural value,
- (c) the protection of the ecological integrity of one or more ecosystems for present and future generations,
- (d) the promotion of public appreciation and understanding of the national park's natural and cultural values,
- (e) provision for sustainable visitor or tourist use and enjoyment that is compatible with the conservation of the national park's natural and cultural values,
- (f) provision for the sustainable use (including adaptive reuse) of any buildings or structures or modified natural areas having regard to the conservation of the national park's natural and cultural values,
- (fa) provision for the carrying out of development in any part of a special area (within the meaning of the *Hunter Water Act 1991*) in the national park that is permitted under section 185A having regard to the conservation of the national park's natural and cultural values,
- (g) provision for appropriate research and monitoring.